

January 15, 2021

Via Email & U.S. Mail  
Hon. Cynthia Lummis  
United States Senate  
Suite SD-G12  
Washington, DC 20510  
Attn: Kristen P. Walker, [kristenpatricewalker@gmail.com](mailto:kristenpatricewalker@gmail.com)

**Re: Rejection of Pennsylvania Electoral College Vote**

Dear Senator Lummis:

On January 3<sup>rd</sup> you made history as the first woman from Wyoming to be sworn into the United States Senate. Regrettably, on January 7<sup>th</sup> you made history again by becoming Wyoming's first elected representative to reject the duly certified electoral college votes of another state.

We understand that you were under pressure to do so by constituents and some Republican colleagues who, disappointed in the President's loss, came to believe that the election results were unfair or fraudulent. That has been said in past elections and will undoubtedly be said again in the future.

Nevertheless, we believe your vote, made over the strenuous objections of Republican Senate leadership, as well as the rest of Wyoming's Congressional delegation, not only displayed a lack of judgement and awareness of the moment, but it also violated your sacred oath to uphold and defend the Constitution and laws of the United States—an oath you gave as a new Senator, and one that reaffirmed the oath you gave over 35 years ago when you were sworn in as a member of the Wyoming State Bar.

While you have attempted to portray your actions as promoting "election integrity," in fact, they encouraged just the opposite. We are sad and disappointed that, unlike some of your Republican colleagues, who sensibly abandoned their plans to reject electoral college votes following the siege of the Senate, you could not see the danger of your vote.

You cite your personal "concerns" about the constitutionality of Pennsylvania's mail-in voting statute and the possible "unequal" application of Pennsylvania's voter identification requirements as lawful grounds under the *Electoral Count Act of 1887* to reject Pennsylvania's electoral college certification. As support, you point to the precedent of Barbara Boxer's rejection of Ohio's electoral count certification in 2005 because of her concerns about alleged voter

suppression built into Ohio's election laws. That you would look to precedent set by Barbara Boxer, neither a Conservative nor a proponent of states' rights, should have made you question your approach. Her actions were widely derided at the time, particularly by Republicans, as being undemocratic and legally unsupportable, which they were.

The *Electoral Count Act of 1887* created an orderly process for Congress to resolve questions concerning the authenticity and validity of electoral college certifications submitted by the states. The statute, among other things, was intended to provide direction to Congress about how to deal with a state that submits two competing certifications, a situation that had occurred in a recent election before consideration of the Act. Notably, though, where a state submits only a single certification, and it is shown to be "regularly given" and "lawfully certified," the Act provides that Congress has no basis to reject it.

As you are fully aware, no issues were raised in Congress concerning the authenticity or validity of the electoral college certification of any state after the 2020 election. Pennsylvania's "Certificate of Ascertainment of Presidential Electors," like all of the other state certifications, was in proper form, bore all necessary signatures and attestations, and is freely available online for anyone to see. Without question, under the formal language of the *Electoral Count Act of 1887*, the certification was "regularly given" and "lawfully certified." Thus, under the 12<sup>th</sup> Amendment to the U.S. Constitution, as well as the language of the 1887 Act, Congress was legally required to accept it as Pennsylvania's electoral college vote.

All of this accords with fundamental principles of American federalism, with which you are very well acquainted. A Senator from Wyoming has no legal or constitutional right to reject the certification of another state's electoral college vote simply because she has concerns about that state's election laws or procedures. To conclude otherwise would allow the ruling party in any Congress to reject the electoral college vote of any minority party state for literally any reason. You would not take kindly to Chuck Schumer and his Democratic allies rejecting Wyoming's electoral college certification, thereby disenfranchising Wyomingites, because they were "concerned" by some aspect of how we conduct our elections. Yet you showed that very disrespect to Pennsylvania.

That was wrong.

We have followed events very closely over the last many months, waiting for the evidence of electoral chicanery to be revealed, yet it has not. As a member of the Wyoming Bar, you should have been keenly aware that the proper venue for challenging a State's election process or asserting fraud or "irregularities" is in the Judicial Branch, where, in fact, many such challenges were made and failed for want of any supporting evidence or cogent legal argument. Using your position to pursue a "legislative" challenge to "alleged" election irregularities showed irresponsible disregard for the Separation of Powers doctrine.

We share your stated interest in promoting “election integrity.” Regrettably, by unlawfully rejecting the electoral college vote of Pennsylvania, you lent your Senatorial credibility to perpetuate the idea that the election was “stolen,” leaving many to believe that our elections can’t be trusted. As we have seen, that is a very dangerous idea to spread, and both as a Senator and a lawyer, we hope you will now choose to reject it.

In the interest of promoting “election integrity” and healing the terrible damage done to our democracy in recent days, we ask that you start by acknowledging that your vote to reject the Pennsylvania electoral college vote was in error, and that you publicly affirm the legitimacy of the results of the 2020 Presidential election. Regardless of partisan political pressures, we believe these actions are required both by your oath to uphold and defend the United States Constitution, and by your obligations under the Wyoming Rules of Professional Conduct governing the legal profession.

Thank you for your consideration. We look forward to your response.

*(names submitted in alphabetical order)*

John Araas, lawyer, Sheridan

James Belcher, lawyer, Casper

Kenneth Barbe, lawyer, Casper

Bradley L. Book, lawyer, Jackson

Lauren Browne, lawyer, Jackson

Ed Bushnell, lawyer, Jackson

Kim Cannon, lawyer, Sheridan

Brent Cohen, lawyer, Denver

Allison Colgin, lawyer, Jackson

Jim Coleman, lawyer, Jackson

Richard Davis, lawyer, Past President Wyoming Bar Assn., Sheridan

Jean Day, lawyer, Jackson

Stuart Day, lawyer, Casper

Steve Emory, lawyer, Casper

Rolf Engh, lawyer, Jackson

Amanda Ferguson Esch, lawyer, Cheyenne

Alex Freeburg, lawyer, Jackson

William Fix, lawyer, Jackson

Scott Garland, lawyer, Jackson  
Jay Gilbertz, lawyer, Sheridan  
Michael Golden, Justice, Wyoming Supreme Court, retired  
Kevin Gregory, lawyer, Jackson  
Nicholas Haderlie, lawyer, Saratoga  
Christopher Hawks, lawyer, Jackson  
Frank Hess, lawyer, Jackson  
Paul Hickey, lawyer, Past President Wyoming Bar Assn., Cheyenne  
Pat Holscher, lawyer, Casper  
Roy Jacobsen, lawyer, Laramie  
Mark Johnson, U.S. Army Judge Advocate, retired  
Justin Kallal, lawyer, Cheyenne  
Paul Kapp, lawyer, Cheyenne  
R. Scott Kath, lawyer, Powell  
Matt Kim-Miller, lawyer, Jackson  
Dennis Kirven, lawyer, Buffalo  
Marilyn Kite, Justice, Wyoming Supreme Court, retired  
Kevin Kessner, lawyer, Sheridan  
George Kuvinka & Lea Jacobs Kuvinka, lawyers, Jackson  
Nicole Krieger, lawyer, Jackson  
Becky Lewis, lawyer, Steamboat Springs  
Robbin Levy-Mommsen, lawyer, Jackson  
James Lubing, lawyer, Jackson  
John A. Masterson, lawyer, Past President Wyoming Bar Assn., Casper  
Larrissa A. McCalla & J. Douglas McCalla, lawyers, Sheridan  
Brad Mead & Kate Mead, lawyers, Jackson  
Anna Mommsen, lawyer, Jackson  
Joseph Moore, lawyer, Jackson  
Richard Mulligan, lawyer, Jackson  
Nick Murdock, lawyer, Casper  
Craig Newman, lawyer, Casper

Mel Orchard, lawyer, Jackson  
Dave Park, Wyoming District Court Judge (Natrona County), retired  
Jerry Parkinson, former Dean, Wyoming College of Law  
Laura Pontius, lawyer, Indiana  
Nate Rectanus, lawyer, Jackson  
Anna Reeves Olson, lawyer, Casper  
Kyle Ridgeway, lawyer, Sheridan  
Benjamin J. Rowland, lawyer, Cheyenne  
Robert Schuster, lawyer, Jackson  
William Schwartz & Cheryl Ranck Schwartz, lawyers, Jackson  
Leah Schwartz & Bradley Adams, lawyers, Jackson  
Ken Stebner, Wyoming District Judge (Carbon County), retired  
Laurie Stern, lawyer, Jackson  
Judy Studer, lawyer, Casper  
Joe Teig, lawyer, Anchorage  
Peter Timbers, lawyer, Casper  
Bryan Ulmer, lawyer, Jackson  
Wade Waldrip, Wyoming District Judge (Carbon County), retired  
Cameron Walker, lawyer, Casper  
Rhonda Woodard, lawyer, Cheyenne  
Gay Woodhouse, lawyer, former Wyoming Attorney General, Past President Wyoming Bar Assn., Cheyenne  
Madison Worst, lawyer, Jackson  
John Wylie, lawyer, Jackson  
Norman Young, Wyoming District Judge (Fremont County) retired